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AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1478

Introduced by Senator Sher
(Principal coauthor: Assembly Member Jackson)

February 19, 2004

An act to amend Sections 25740, 25743, 25744, and 25748 of, and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 387, 399.11, 399.12, 399.13, 399.14, 399.15, and 399.16 of, and to add Section 399.17 to, and Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1478, as amended, Sher. Renewable energy.

(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the

amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006.

This bill would recast that intent language so that the amount of renewable electricity generated per year is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by 2010, rather than 2006. The bill would make conforming changes.

(2) The Public Utilities Act imposes various duties and responsibilities on the Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017.

This bill would instead require that each electrical corporation increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

This bill would require the Energy Commission to establish a renewable energy credit, as defined, trading program and to develop tracking, accounting, verification, and enforcement mechanisms for the program. The bill would prohibit the Energy Commission from



certifying or awarding tradeable renewable energy credits for electricity generated pursuant to any electricity purchase contract with a retail seller executed before January 1, 2005, that does not contain explicit terms and conditions specifying the ownership or disposition of those credits. The bill would prohibit the Energy Commission from certifying or awarding tradeable renewable energy credits for electricity generated pursuant to any purchase contract executed after January 1, 2005, pursuant to a prescribed federal act. The bill would provide for the tracking of deliveries under these purchase contracts through a prescribed accounting system. The bill would additionally require the Energy Commission to require any retail seller of electricity that does not meet the requirements of the renewables portfolio standard by directly owning or purchasing electricity generated from eligible renewable energy resources, to purchase renewable energy credits for a quantity of electricity produced from eligible renewable energy resources, that is sufficient to make up the shortfall. The bill would require the CPUC to establish rules authorizing electrical corporations to meet the renewables portfolio standard requirements using renewable energy credits. The bill would require the rules to prohibit an electrical corporation from selling renewable energy credits associated with eligible renewable energy resources included in the corporation's baseline quantity on January 1, 2004. The bill would require the Energy Commission to certify, and would specify criteria for, the eligibility of renewable energy credits associated with electricity delivered to a local publicly owned electric utility by an eligible renewable energy resource, for purposes of compliance with the portfolio standard by a retail seller. The bill would make other technical and conforming changes.

(4) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to annually report certain information relative to renewable energy resources to its customers.

This bill would additionally require that the governing board of a local publicly owned electric utility report to the Energy Commission the information that they are required to annually report to their



customers. The bill would require the Energy Commission to report to the Governor and Legislature no later than January 1, 2006, with recommendations for how to incentivize each local publicly owned electric utility to implement and enforce a renewables portfolio standard program consistent with the renewables portfolio standard program requirements applicable to a retail seller of electricity.

(5) Under the Public Utilities Act, the CPUC requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources (renewable energy public goods charge). Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the Energy Commission to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation pursuant to a competitive solicitation procedure found by the CPUC to comply with the Renewables Portfolio Standard Program and that the project participant has entered into a purchase power agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize certain projects to receive supplemental energy payments under certain circumstances. The bill would revise existing criteria for Energy Commission consideration of an out-of-state electrical generation facility as an eligible renewable energy resource.

(6) Existing law requires 17.5% of the money collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications, and that certain funds be expended in accordance with the above-described



report, subject to, among other things, the requirement that funding for emerging technologies be provided through a competitive, market-based process.

This bill would recast the competitive process so that funding would be provided to projects chosen through a competitive, market-based process that is in place for not less than five years, and would be structured to allow eligible emerging technology manufacturers and suppliers to anticipate and plan for increased sale and installation volumes over the life of the program.

(7) Existing law requires 10% of the money collected under the renewable energy public goods charge be used for customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

This bill would delete this provision.

(8) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the CPUC's approval of a purchase power agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

(9) This bill would require an electrical corporation or local publicly owned utility to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.

(10) This bill would delete certain obsolete and duplicative provisions and make technical and conforming changes.

(11) Existing law makes a violation of the Public Utilities Act or a violation of an order of the CPUC a crime.

Because a violation of the provisions of the bill or of any CPUC order implementing these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



(13) *This bill would provide that its changes in Section 25748 of the Public Resources Code would not become operative if Assembly Bill 2304 is enacted and becomes effective.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25740 of the Public Resources Code is
2 amended to read:
3 25740. It is the intent of the Legislature in establishing this
4 program, to increase the amount of renewable electricity
5 generated per year, so that it equals at least 20 percent of the total
6 electricity sold to retail customers in California per year by the
7 year 2010.
8 SEC. 2. Section 25743 of the Public Resources Code is
9 amended to read:
10 25743. (a) Fifty-one and one-half percent of the money
11 collected pursuant to the renewable energy public goods charge
12 shall be used for programs designed to foster the development of
13 new in-state renewable electricity generation facilities, and to
14 secure for the state the environmental, economic, and reliability
15 benefits that operation of those facilities will provide.
16 (b) Any funds used for new in-state renewable electricity
17 generation facilities pursuant to this section shall be expended in
18 accordance with the report, subject to all of the following
19 requirements:
20 (1) In order to cover the above market costs of renewable
21 resources as approved by the Public Utilities Commission and
22 selected by retail sellers to fulfill their obligations under Article 16
23 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
24 Division 1 of the Public Utilities Code, the commission shall
25 award funds in the form of supplemental energy payments, subject
26 to the following criteria:
27 (A) The commission may establish caps on supplemental
28 energy payments. The caps shall be designed to provide for a
29 viable energy market capable of achieving the goals of Article 16
30 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of the
31 Public Utilities Code. The commission may waive application of
32 the caps to accommodate a facility if it is demonstrated to the



1 satisfaction of the commission that operation of the facility would
2 provide substantial economic and environmental benefits to
3 end-use customers subject to the funding requirements of the
4 renewable energy public goods charge.

5 (B) Supplemental energy payments shall be awarded only to
6 facilities that are eligible for funding under this subdivision.

7 (C) Supplemental energy payments awarded to facilities
8 selected by an electrical corporation pursuant to Article 16
9 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
10 Division 1 of the Public Utilities Code shall be paid for the lesser
11 of 10 years or the duration of the contract with the electrical
12 corporation.

13 (D) The commission shall reduce or terminate supplemental
14 energy payments for projects that fail either to commence and
15 maintain operations consistent with the contractual obligations to
16 an electrical corporation or that fail to meet eligibility
17 requirements.

18 (E) Funds shall be managed in an equitable manner in order for
19 retail sellers to meet their obligation under Article 16
20 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
21 Division 1 of the Public Utilities Code.

22 (F) A project may receive funds pursuant to this section only
23 if it is selected by an electrical corporation pursuant to a
24 competitive solicitation that is found by the Public Utilities
25 Commission to comply with the California Renewables Portfolio
26 Standard Program under Article 16 (commencing with Section
27 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities
28 Code and that has entered a purchase power agreement resulting
29 from that solicitation that is approved by the Public Utilities
30 Commission. Projects selected by other retail sellers may receive
31 supplemental energy payments if the Public Utilities Commission
32 develops an approval process that incorporates the same terms and
33 conditions applicable to comparable contracts with an electrical
34 corporation.

35 (2) The commission may determine as part of a solicitation,
36 that a facility that does not meet the definition of an “in-state
37 renewable electricity generation technology” facility solely
38 because it is located outside the state, is eligible for funding under
39 this subdivision if it meets all of the following requirements:



1 (A) It is located so that it is or will be connected to the Western
2 Electricity Coordinating Council (WECC) transmission system.

3 (B) It is developed with guaranteed contracts to sell its
4 generation to end-use customers subject to the funding
5 requirements of Section 381, or to marketers that provide this
6 guarantee for resale of the generation, for a period of time at least
7 equal to the amount of time it receives incentive payments under
8 this subdivision.

9 (C) It will not cause or contribute to any violation of a
10 California environmental quality standard or requirement.

11 (D) If the facility is outside of the United States, it is developed
12 and operated in a manner that is as protective of the environment
13 as a similar facility located in the state.

14 (E) It meets any other condition established by the
15 commission.

16 (3) Facilities that are eligible to receive funding pursuant to this
17 subdivision shall be registered in accordance with criteria
18 developed by the commission and those facilities may not receive
19 payments for any electricity produced that has any of the following
20 characteristics:

21 (A) Is sold under an existing long-term contract with an
22 existing in-state electrical corporation if the contract includes
23 fixed energy or capacity payments, except for that electricity that
24 satisfies subparagraph (C) of paragraph (1) of subdivision (c) of
25 Section 399.6 of the Public Utilities Code.

26 (B) Is used onsite or is sold to customers in a manner that
27 excludes competitive transition charge payments, or is otherwise
28 excluded from competitive transition charge payments.

29 (C) Is produced by a facility that is owned by an electrical
30 corporation or a local publicly owned electric utility as defined in
31 subdivision (d) of Section 9604 of the Public Utilities Code.

32 (D) Is a hydroelectric generation project that will require a new
33 or increased appropriation of water under Part 2 (commencing
34 with Section 1200) of Division 2 of the Water Code.

35 (E) Is a solid waste conversion facility, unless the facility meets
36 the criteria established in paragraph (3) of subdivision (a) of
37 Section 25741 and the facility certifies that any local agency
38 sending solid waste to the facility is in compliance with Division
39 30 (commencing with Section 40000), has reduced, recycled, or
40 composted solid waste to the maximum extent feasible, and shall

1 have been found by the California Integrated Waste Management
2 Board to have diverted at least 30 percent of all solid waste through
3 source reduction, recycling, and composting.

4 (4) Eligibility to compete for funds or to receive funds shall be
5 contingent upon having to sell the output of the renewable
6 electricity generation facility to customers subject to the funding
7 requirements of the renewable energy public goods charge.

8 (5) The commission may require applicants competing for
9 funding to post a forfeitable bid bond or other financial guaranty
10 as an assurance of the applicant's intent to move forward
11 expeditiously with the project proposed. The amount of any bid
12 bond or financial guaranty may not exceed 10 percent of the total
13 amount of the funding requested by the applicant.

14 (6) In awarding funding, the commission may provide
15 preference to projects that provide tangible demonstrable benefits
16 to communities with a plurality of minority or low-income
17 populations.

18 (c) Repowered existing facilities shall be eligible for funding
19 under this subdivision if the capital investment to repower the
20 existing facility equals at least 80 percent of the value of the
21 repowered facility.

22 (d) Facilities engaging in the direct combustion of municipal
23 solid waste or tires are not eligible for funding under this
24 subdivision.

25 (e) Production incentives awarded under this subdivision prior
26 to January 1, 2002, shall commence on the date that a project
27 begins electricity production, provided that the project was
28 operational prior to January 1, 2002, unless the commission finds
29 that the project will not be operational prior to January 1, 2002, due
30 to circumstances beyond the control of the developer. Upon
31 making a finding that the project will not be operational due to
32 circumstances beyond the control of the developer, the
33 commission shall pay production incentives over a five-year
34 period, commencing on the date of operation, provided that the
35 date that a project begins electricity production may not extend
36 beyond January 1, 2007.

37 (f) Facilities generating electricity from biomass energy shall
38 be considered an in-state renewable electricity generation
39 technology facility to the extent that they report to the commission
40 the types and quantities of biomass fuels used and certify to the

1 satisfaction of the commission that fuel utilization is limited to the
2 following:

3 (1) Agricultural crops and agricultural wastes and residues.

4 (2) Solid waste materials such as waste pallets, crates, dunnage,
5 manufacturing, and construction wood wastes, landscape or
6 right-of-way tree trimmings, mill residues that are directly the
7 result of the milling of lumber, and rangeland maintenance
8 residues.

9 (3) Wood and wood wastes that meet all of the following
10 requirements:

11 (A) Have been harvested pursuant to an approved timber
12 harvest plan prepared in accordance with the Z'berg-Nejedly
13 Forest Practice Act of 1973 (Chapter 8 (commencing with Section
14 4511) of Part 2 of Division 4).

15 (B) Have been harvested for the purpose of forest fire fuel
16 reduction or forest stand improvement.

17 (C) Do not transport or cause the transportation of species
18 known to harbor insect or disease nests outside zones of infestation
19 or current quarantine zones, as identified by the Department of
20 Food and Agriculture or the Department of Forestry and Fire
21 Protection, unless approved by the Department of Food and
22 Agriculture and the Department of Forestry and Fire Protection.

23 SEC. 3. Section 25744 of the Public Resources Code is
24 amended to read:

25 25744. (a) Seventeen and one-half percent of the money
26 collected pursuant to the renewable energy public goods charge
27 shall be used for a multiyear, consumer-based program to foster
28 the development of emerging renewable technologies in
29 distributed generation applications.

30 (b) Any funds used for emerging technologies pursuant to this
31 section shall be expended in accordance with the report, subject to
32 all of the following requirements:

33 (1) Funding for emerging technologies shall be provided
34 through a competitive, market-based process that is in place for a
35 period of not less than five years, and is structured to allow eligible
36 emerging technology manufacturers and suppliers to anticipate
37 and plan for increased sale and installation volumes over the life
38 of the program.

39 (2) The program shall provide monetary rebates, buydowns, or
40 equivalent incentives, subject to paragraph (3), to purchasers,

1 lessees, lessors, or sellers of eligible electricity generating
2 systems. Incentives shall benefit the end-use consumer of
3 renewable generation by directly and exclusively reducing the
4 purchase or lease cost of the eligible system, or the cost of
5 electricity produced by the eligible system. Incentives shall be
6 issued on the basis of the rated electrical generating capacity of the
7 system measured in watts, or the amount of electricity production
8 of the system, measured in kilowatthours. Incentives shall be
9 limited to a maximum percentage of the system price, as
10 determined by the commission.

11 (3) Eligible distributed emerging technologies are
12 photovoltaic, solar thermal electric, fuel cell technologies that
13 utilize renewable fuels, and wind turbines of not more than 50
14 kilowatts rated electrical generating capacity per customer site,
15 and other distributed renewable emerging technologies that meet
16 the emerging technology eligibility criteria established by the
17 commission. Eligible electricity generating systems are intended
18 primarily to offset part or all of the consumer's own electricity
19 demand, and shall not be owned by local publicly owned electric
20 utilities, nor be located at a customer site that is not receiving
21 distribution service from an electrical corporation that is subject
22 to the renewable energy public goods charge and contributing
23 funds to support programs under this chapter. All eligible
24 electricity generating system components shall be new and
25 unused, shall not have been previously placed in service in any
26 other location or for any other application, and shall have a
27 warranty of not less than five years to protect against defects and
28 undue degradation of electrical generation output. Systems and
29 their fuel resources shall be located on the same premises of the
30 end-use consumer where the consumer's own electricity demand
31 is located, and all eligible electricity generating systems shall be
32 connected to the utility grid in California. The commission may
33 require eligible electricity generating systems to have meters in
34 place to monitor and measure a system's performance and
35 generation. Only systems that will be operated in compliance with
36 applicable law and the rules of the Public Utilities Commission
37 shall be eligible for funding.

38 (4) The commission shall limit the amount of funds available
39 for any system or project of multiple systems and reduce the level
40 of funding for any system or project of multiple systems that has



1 received, or may be eligible to receive, any government or utility
2 funds, incentives, or credit.

3 (5) In awarding funding, the commission may provide
4 preference to systems that provide tangible demonstrable benefits
5 to communities with a plurality of minority or low-income
6 populations.

7 (6) In awarding funding, the commission shall develop and
8 implement eligibility criteria and a system that provides
9 preference to systems based upon system performance, taking into
10 account factors, including shading, insulation levels, and
11 installation orientation.

12 (7) At least once annually, the commission shall publish and
13 make available to the public the balance of funds available for
14 emerging renewable energy resources for rebates, buydowns, and
15 other incentives for the purchase of these resources.

16 SEC. 4. Section 25745 of the Public Resources Code is
17 repealed.

18 SEC. 5. Section 25748 of the Public Resources Code is
19 amended to read:

20 25748. The commission shall report to the Legislature on or
21 before May 31, 2000, and on or before May 31 of every second
22 year thereafter, regarding the results of the mechanisms funded
23 pursuant to this chapter. Reports prepared pursuant to this section
24 shall include a description of the allocation of funds among
25 existing, new and emerging technologies; the allocation of funds
26 among programs, including consumer-side incentives; and the
27 need for the reallocation of money among those technologies. The
28 report shall identify the types and quantities of biomass fuels used
29 by facilities receiving funds pursuant to Section 25743 and their
30 impacts on improving air quality. The reports shall discuss the
31 progress being made toward achieving the targets established
32 under Section 25740 by each funding category authorized
33 pursuant to this chapter. The reports shall also address the
34 allocation of funds from interest on the accounts described in this
35 chapter, and money in the accounts described in subdivision (b) of
36 Section 25751. Money may be reallocated without further
37 legislative action among existing, new, and emerging technologies
38 and consumer-side programs in a manner consistent with the
39 report and with the latest report provided to the Legislature
40 pursuant to this section, except that reallocations may not reduce



1 the allocation established in Section 25743 nor increase the
2 allocation established in Section 25742.

3 SEC. 6. Section 25749 of the Public Resources Code is
4 repealed.

5 SEC. 7. Section 387 of the Public Utilities Code is amended
6 to read:

7 387. (a) Each governing body of a local publicly owned
8 electric utility, as defined in Section 9604, shall be responsible for
9 implementing and enforcing a renewables portfolio standard that
10 recognizes the intent of the Legislature to encourage renewable
11 resources, while taking into consideration the effect of the
12 standard on rates, reliability, and financial resources and the goal
13 of environmental improvement.

14 (b) Each local publicly owned electric utility shall report, on an
15 annual basis, to its customers and the State Energy Resources
16 Conservation and Development Commission, the following:

17 (1) Expenditures of public goods funds collected pursuant to
18 Section 385 for renewable energy resource development. Reports
19 shall contain a description of programs, expenditures, and
20 expected or actual results.

21 (2) The resource mix used to serve its customers by fuel type.
22 Reports shall contain the contribution of each type of renewable
23 energy resource with separate categories for those fuels considered
24 eligible renewable energy resources as defined by Section 399.12.

25 SEC. 8. Section 399.11 of the Public Utilities Code is
26 amended to read:

27 399.11. The Legislature finds and declares all of the
28 following:

29 (a) In order to attain a target of 20 percent by the year 2010
30 renewable energy for the State of California and for the purposes
31 of increasing the diversity, reliability, public health and
32 environmental benefits of the energy mix, it is the intent of the
33 Legislature that the California Public Utilities Commission and
34 the State Energy Resources Conservation and Development
35 Commission implement the California Renewables Portfolio
36 Standard Program described in this article.

37 (b) Increasing California's reliance on renewable energy
38 resources may promote stable electricity prices, protect public
39 health, improve environmental quality, stimulate sustainable

1 economic development, create new employment opportunities,
2 and reduce reliance on imported fuels.

3 (c) The development of renewable energy resources may
4 ameliorate air quality problems throughout the state and improve
5 public health by reducing the burning of fossil fuels and the
6 associated environmental impacts.

7 (d) The California Renewables Portfolio Standard Program is
8 intended to complement the Renewable Energy Program
9 administered by the State Energy Resources Conservation and
10 Development Commission and established pursuant to Sections
11 383.5 and 445.

12 (e) New and modified electric transmission facilities may be
13 necessary to facilitate the state achieving its renewable portfolio
14 standard targets. In order to attain a target of 20 percent by 2010,
15 the state must expedite regulatory proceedings related to the
16 addition or modification of electric transmission by fast-tracking
17 the processing of transmission permit requests needed to facilitate
18 the development or delivery of renewable generation. It is the
19 intent of the Legislature that the commission report to the
20 Legislature annually, consistent with its reporting obligations
21 under Section 1701.6, the actions it has taken to fast-track
22 completion of proceedings related to the addition or modification
23 of electric transmission needed to access renewable power, and the
24 results of those actions.

25 SEC. 9. Section 399.12 of the Public Utilities Code is
26 amended to read:

27 399.12. For purposes of this article, the following terms have
28 the following meanings:

29 (a) “Eligible renewable energy resource” means an electric
30 generating facility that meets the definition of “in-state renewable
31 electricity generation facility” in Section 25741 of the Public
32 Resources Code, subject to the following limitations:

33 (1) (A) A geothermal generation facility originally
34 commencing operation prior to September 26, 1996, shall be
35 eligible for purposes of adjusting a retail seller’s baseline quantity
36 of eligible renewable energy resources except for electricity
37 certified as incremental geothermal production by the Energy
38 Commission, provided that the incremental electricity that is
39 generated was not sold to an electrical corporation under contract
40 entered into prior to September 26, 1996. For each facility seeking



1 certification, the Energy Commission shall determine historical
2 production trends and establish criteria for measuring incremental
3 geothermal production that recognizes the declining geothermal
4 output of existing steamfields and the contribution of capital
5 investments in the facility or wellfield.

6 (B) This paragraph shall remain operative only until January 1,
7 2010.

8 (2) (A) An existing small hydroelectric generation facility of
9 30 megawatts or less shall be eligible only if a retail seller owned
10 or procured the electricity from the facility as of December 31,
11 2003, and that electricity shall be eligible only for purposes of
12 establishing the baseline. A new hydroelectric facility is not an
13 eligible renewable energy resource if it will require a new or
14 increased appropriation or diversion of water under Part 2
15 (commencing with Section 1200) of Division 2 of the Water Code.

16 (B) Notwithstanding subparagraph (A) an existing conduit
17 hydroelectric facility of 30 megawatts or less as defined by Section
18 823a of Title 16 of the United States Code, shall be eligible for the
19 purposes of establishing a retail seller's baseline quantity of
20 eligible renewable energy resources. A new conduit hydroelectric
21 facility of 30 megawatts or less, as defined by Section 823a of Title
22 16 of the United States Code, shall be an eligible renewable energy
23 resource if it does not require a new or increased appropriation or
24 diversion of water under Part 2 (commencing with Section 1200)
25 of Division 2 of the Water Code.

26 (3) A facility engaged in the combustion of municipal solid
27 waste shall not be considered an eligible renewable resource unless
28 it is located in Stanislaus County and was operational prior to
29 September 26, 1996. Electricity generated by a facility meeting
30 these requirements shall be eligible only for the purpose of
31 adjusting a retail seller's baseline quantity of eligible renewable
32 energy resources.

33 (4) Notwithstanding paragraph (1), any geothermal electricity
34 included in the baseline of a retail seller from a facility under a
35 long-term contract executed before January 1, 2004, shall be
36 eligible to satisfy the annual procurement targets of any retail
37 seller upon the expiration of that contract.

38 (b) "Energy Commission" means the State Energy Resources
39 Conservation and Development Commission.

(c) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers located within this state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing in this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct transactions by the commission pursuant to Section 80110 of the Water Code.

(4) “Retail seller” does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility, as defined in Section 9604.

(d) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy

resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

(e) “Renewable energy credit” means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated by an eligible renewable energy resource and delivered to a retail seller or the Independent System Operator. The Energy Commission shall ensure that the renewable energy credit includes, but is not limited to, all renewable and environmental attributes associated with renewable electricity production. The Energy Commission shall consult with the commission in establishing the definition of a renewable energy credit, to ensure compatibility with the standard contract terms adopted pursuant to Section 399.14 and to protect the interests of ratepayers. Any electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity, as determined by the Energy Commission, shall not result in the creation of any renewable energy credits.

SEC. 10. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The Energy Commission shall do all of the following:
(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (a) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that renewable energy output is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical

1 corporations and remit the data to the Energy Commission within
2 90 days of the request.

3 (c) Establish a system for tracking and verifying renewable
4 energy credits. The Energy Commission shall consult with other
5 states in the Western Electricity Coordinating Council
6 transmission system to develop consistent mechanisms and
7 protocols for verifying renewable energy credits and to prevent
8 double counting of the electricity generated from any renewable
9 energy resource.

10 (d) Allocate and award supplemental energy payments
11 pursuant to Chapter 8.6 (commencing with Section 25740) of
12 Division 15 of the Public Resources Code, to eligible renewable
13 energy resources to cover above-market costs of renewable
14 energy. A project may receive supplemental energy payments only
15 if it is selected by an electrical corporation pursuant to a
16 competitive solicitation that is found by the commission to comply
17 with the California Renewables Portfolio Standard Program under
18 this article and that has entered a purchase power agreement
19 resulting from that solicitation that is approved by the commission.
20 Projects selected by other retail sellers may receive supplemental
21 energy payments if the commission develops an approval process
22 that incorporates the same terms and conditions applicable to
23 comparable contracts with an electrical corporation. The Energy
24 Commission may not award supplemental energy payments for the
25 sale or purchase of renewable energy credits.

26 (e) Certify, for purposes of compliance with the renewables
27 portfolio standard by a retail seller, the eligibility of renewable
28 energy credits associated with deliveries of electricity by an
29 eligible renewable energy resource to a local publicly owned
30 electric utility if the Energy Commission determines that the
31 following conditions have been satisfied:

32 (1) The local publicly owned electric utility procuring the
33 electricity complies with the requirements of Section 387.

34 (2) The local publicly owned electric utility has established
35 annual procurement targets comparable to those applicable to an
36 electrical corporation, is procuring sufficient eligible renewable
37 energy resources to satisfy these targets, and will not fail to satisfy
38 these targets in the event that the renewable energy credit is sold
39 to another retail seller.



(f) The Energy Commission shall not certify or award tradeable renewable energy credits for electricity generated pursuant to any electricity purchase contract with a retail seller executed before January 1, 2005, that does not contain explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in subdivision (b) and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(g) The Energy Commission shall not certify or award tradeable renewable energy credits for electricity generated under any purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601, et seq.). Deliveries under these contracts shall be tracked through the accounting system described in subdivision (b) and count towards the portfolio standard obligations of the purchasing retail seller.

SEC. 11. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) The commission shall direct each electrical corporation to prepare renewable energy procurement plans as described in paragraph (3) to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(1) (A) The commission shall not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until the commission determines either of the following:

(i) The electrical corporation has attained an investment grade credit rating as determined by at least two major rating agencies.

(ii) The electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. This provision shall not apply before April 1, 2004, for any electrical

1 corporation that on June 30, 2003, is in federal court under Chapter
2 11 of the federal bankruptcy law.

3 (B) Within 90 days of the commission's determination as
4 provided in subparagraph (A), an electrical corporation shall
5 conduct solicitations to implement a renewable energy
6 procurement plan. The determination required by this paragraph
7 shall apply only to the requirements established pursuant to this
8 article. The requirements established for an electrical corporation
9 pursuant to Section 454.5 shall be governed by that section.

10 (2) Not later than six months after the effective date of this
11 section, the commission shall adopt, by rule, for all electrical
12 corporations, all of the following:

13 (A) A process for determining market prices pursuant to
14 subdivision (c) of Section 399.15. The commission shall make
15 specific determinations of market prices after the closing date of
16 a competitive solicitation conducted by an electrical corporation
17 for eligible renewable energy resources. In order to ensure that the
18 market price established by the commission pursuant to
19 subdivision (c) of Section 399.15 does not influence the amount
20 of a bid submitted through the competitive solicitation in a manner
21 that would increase the amount ratepayers are obligated to pay for
22 renewable energy, and in order to ensure that the bid price does not
23 influence the establishment of the market price, the electrical
24 corporation shall not transmit or share the results of any
25 competitive solicitation for eligible renewable energy resources
26 until the commission has established market prices pursuant to
27 subdivision (c) of Section 399.15.

28 (B) A process that provides criteria for the rank ordering and
29 selection of least-cost and best-fit renewable resources to comply
30 with the annual California Renewables Portfolio Standard
31 Program obligations on a total cost basis. This process shall
32 consider estimates of indirect costs associated with needed
33 transmission investments and ongoing utility expenses resulting
34 from integrating and operating eligible renewable energy
35 resources.

36 (C) Flexible rules for compliance, including permitting
37 electrical corporations to apply excess procurement in one year to
38 subsequent years or inadequate procurement in one year to no
39 more than the following three years.

1 (D) Rules that authorize the use of renewable energy credits to
2 satisfy annual procurement targets. At a minimum, the rules shall
3 do all of the following:

4 (i) Prohibit a renewable energy credit from being counted more
5 than once by any retail seller for compliance with the renewables
6 portfolio standard of this state or any other state, or for verifying
7 retail product claims in this state or any other state.

8 (ii) Prohibit the eligibility of any renewable energy credit for
9 the purposes of complying with the portfolio standard unless the
10 seller of the credit is a retail seller, an eligible renewable energy
11 resource, a local publicly owned utility satisfying the requirements
12 of subdivision (e) of Section 399.13, or any other entity procuring
13 power from an eligible renewable energy resource under a
14 long-term electricity purchase contract.

15 (iii) Prohibit the eligibility of any renewable energy credit for
16 the purposes of complying with the portfolio standard if it has been
17 sold or transferred more than once separately from the initial
18 delivery of energy from an eligible renewable energy resource.

19 (iv) Ensure that any revenues received by an electrical
20 corporation for the sale of renewable energy credits are credited to
21 ratepayers.

22 (v) In approving a renewable energy procurement plan, the
23 commission may limit the quantity of renewable energy credits
24 that can be procured unbundled from electricity generation to meet
25 the annual procurement targets.

26 (vi) Require every electrical corporation demonstrate that all
27 purchased renewable energy credits are certified by the Energy
28 Commission and comply with the requirements of this article,
29 before purchase expenses may be recovered in rates.

30 (vii) Ensure that no retail seller shall be obligated to procure
31 renewable energy credits to satisfy annual procurement targets in
32 the event that supplemental energy payments, in combination with
33 the market prices approved by the commission, are insufficient to
34 cover the above-market costs of long-term contracts with eligible
35 renewable energy resources.

36 (viii) Prohibit an electrical corporation from selling renewable
37 energy credits associated with eligible renewable energy resources
38 included in that electrical corporation's baseline quantity on
39 January 1, 2004.

1 (ix) Prohibit sales of renewable energy credits by an electrical
2 corporation during any year in which the electrical corporation
3 utilizes flexible compliance rules to permit inadequate
4 procurement pursuant to subparagraph (C).

5 (E) Standard terms and conditions to be used by all electrical
6 corporations in contracting for eligible renewable energy
7 resources, including performance requirements for renewable
8 generators. A contract for the purchase of electricity generated by
9 an eligible renewable energy resource shall include the renewable
10 energy credits associated with all electricity generation specified
11 under the contract. The standard terms and conditions shall include
12 the requirement that, no later than six months after the
13 commission's approval of a purchase power agreement entered
14 into pursuant to this article, the following information about the
15 agreement shall be disclosed by the commission: party names,
16 resource type, project location, and project capacity.

17 (3) Consistent with the goal of procuring the least-cost and
18 best-fit eligible renewable energy resources, the renewable energy
19 procurement plan submitted by an electrical corporation shall
20 include all of the following:

21 (A) An assessment of annual or multiyear portfolio supplies
22 and demand to determine the optimal mix of renewable generation
23 resources with deliverability characteristics that may include
24 peaking, dispatchable, baseload, firm, and as-available capacity.

25 (B) Provisions for employing available compliance flexibility
26 mechanisms established by the commission.

27 (C) A bid solicitation setting forth the need for renewable
28 generation of each deliverability characteristic, required online
29 dates, and locational preferences, if any.

30 (4) In soliciting and procuring eligible renewable energy
31 resources, each electrical corporation shall offer contracts of no
32 less than 10 years in duration, unless the commission approves of
33 a contract of shorter duration. Any bid solicitation or contract of
34 less than 10 years in duration shall be considered nonconforming.

35 (5) In soliciting and procuring eligible renewable energy
36 resources, each electrical corporation may give preference to
37 projects that provide tangible demonstrable benefits to
38 communities with a plurality of minority or low-income
39 populations.



(b) The commission shall review and accept, modify, or reject each electrical corporation's renewable procurement plan 90 days prior to the commencement of renewable procurement pursuant to this article by the electrical corporation.

(c) The commission shall review the results of a renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition amongst the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(d) If an electrical corporation fails to comply with a commission order adopting a renewable procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance.

(e) Upon application by an electrical corporation, the commission may authorize another entity to enter into contracts on behalf of customers of the electrical corporation for deliveries of eligible renewable energy resources to satisfy the annual portfolio standard obligations, subject to similar terms and conditions applicable to an electrical corporation. The commission shall allow the procurement entity to recover reasonable costs through retail rates subject to review and approval.

(f) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

(g) For purposes of this article, "procure" means that a utility may acquire the renewable output of electric generation facilities that it owns or for which it has contracted. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant

1 to Section 25742 or 25743 of the Public Resources Code,
2 including work performed to qualify, receive, or maintain
3 production incentives or supplemental energy payments is “public
4 works” for the purposes of Chapter 1 (commencing with Section
5 1720) of Part 7 of Division 2 of the Labor Code.

6 SEC. 12. Section 399.15 of the Public Utilities Code is
7 amended to read:

8 399.15. (a) In order to fulfill unmet long-term resource
9 needs, the commission shall establish a renewables portfolio
10 standard requiring all electrical corporations to procure a
11 minimum quantity of electricity generated by eligible renewable
12 energy resources, or an equivalent quantity of renewable energy
13 credits, as a specified percentage of total kilowatthours sold to
14 their retail end-use customers each calendar year, if sufficient
15 funds are made available pursuant to paragraph (2), and Section
16 399.6, and Chapter 8.6 (commencing with Section 25740) of
17 Division 15 of the Public Resources Code, to cover the
18 above-market costs of eligible renewables, and subject to all of the
19 following:

20 (1) An electrical corporation shall not be required to enter into
21 long-term contracts with eligible renewable energy resources that
22 exceed the market prices established pursuant to subdivision (c) of
23 this section.

24 (2) The Energy Commission shall provide supplemental
25 energy payments from funds in the New Renewable Resources
26 Account in the Renewable Resource Trust Fund to eligible
27 renewable energy resources pursuant to Chapter 8.6 (commencing
28 with Section 25740) of Division 15 of the Public Resources Code,
29 consistent with this article, for above-market costs. Funds may be
30 provided or awarded by the Energy Commission only to a project
31 that is selected by an electrical corporation under a competitive
32 solicitation that is found by the commission to comply with the
33 California Renewables Portfolio Standard Program under this
34 article and that has entered into a purchase power agreement
35 resulting from that solicitation that is approved by the commission.
36 Indirect costs associated with the purchase of eligible renewable
37 energy resources, such as imbalance energy charges, sale of excess
38 energy, decreased generation from existing resources, or
39 transmission upgrades shall not be eligible for supplemental

1 energy payments, but shall be recoverable by an electrical
2 corporation in rates, as authorized by the commission.

3 (3) For purposes of setting annual procurement targets, the
4 commission shall establish an initial baseline for each electrical
5 corporation based on the actual percentage of retail sales procured
6 from eligible renewable energy resources in 2001, and, to the
7 extent applicable, adjusted going forward pursuant to subdivision
8 (a) of Section 399.12.

9 (b) The commission shall implement annual procurement
10 targets for each retail seller as follows:

11 (1) Beginning on January 1, 2003, each retail seller shall,
12 pursuant to subdivision (a), increase its total procurement of
13 eligible renewable energy resources by at least an additional 1
14 percent of retail sales per year so that 20 percent of its retail sales
15 are procured from eligible renewable energy resources no later
16 than December 31, 2010. A retail seller with 20 percent of retail
17 sales procured from eligible renewable energy resources in any
18 year shall not be required to increase its procurement of eligible
19 renewable energy resources in the following year.

20 (2) Only for purposes of establishing these targets, the
21 commission shall include all power sold to retail customers by the
22 Department of Water Resources pursuant to Section 80100 of the
23 Water Code in the calculation of retail sales by an electrical
24 corporation.

25 (3) In the event that a retail seller fails to procure sufficient
26 eligible renewable energy resources in a given year to meet any
27 annual target established pursuant to this subdivision, the retail
28 seller shall procure additional eligible renewable energy resources
29 in subsequent years to compensate for the shortfall if sufficient
30 funds are made available pursuant to paragraph (2), and Section
31 399.6, and Chapter 8.6 (commencing with Section 25740) of
32 Division 15 of the Public Resources Code, to cover the
33 above-market costs of eligible renewables.

34 (4) If supplemental energy payments from the Energy
35 Commission, in combination with the market prices approved by
36 the commission, are insufficient to cover the above-market costs
37 of eligible renewable energy resources, the commission shall
38 allow a retail seller to limit its annual procurement obligation to
39 the quantity of eligible renewable energy resources that can be
40 procured with available supplemental energy payments.

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with renewable generators, in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to the electrical corporation's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available output.

(d) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(e) The commission shall consult with the Energy Commission in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

SEC. 13. Section 399.16 of the Public Utilities Code is amended to read:

399.16. The Energy Commission may consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if the facility meets the criteria described in Section 399.12 and all of the following requirements:

(a) It is located so that it will be connected to the Western Electricity Coordinating Council (WECC) transmission system.

(b) It commences initial commercial operation after January 1, 2005, supplies electricity under a guaranteed contract with a retail seller, and demonstrates delivery of the contracted amount of electricity to that retail seller.

(c) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the Energy Commission pursuant to subdivision (b) of Section 399.13.

SEC. 14. Section 399.17 is added to the Public Utilities Code, to read:

399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with

1 60,000 or fewer customer accounts in California that serves retail
2 end-use customers outside California.

3 (b) For an electrical corporation with 60,000 or fewer customer
4 accounts in California that serves retail end-use customers outside
5 California, an eligible renewable energy resource includes a
6 facility that is located outside California, if the facility is
7 connected to the Western Electricity Coordinating Council
8 (WECC) transmission system, provided all of the following
9 conditions are met:

10 (1) The electricity generated by the facility is procured by the
11 electrical corporation on behalf of its California customers, and is
12 not used to fulfill renewable energy procurement requirements in
13 other states.

14 (2) The electrical corporation participates in, and complies
15 with, the accounting system administered by the Energy
16 Commission pursuant to subdivision (b) of Section 399.13.

17 (3) The Energy Commission verifies that the electricity
18 generated by the facility is eligible to meet the annual procurement
19 targets of this article.

20 (c) The commission shall determine the annual procurement
21 targets for an electrical corporation with 60,000 or fewer customer
22 accounts in California that serves retail end-use customers outside
23 California, as a specified percentage of total kilowatthours sold by
24 the electrical corporation to its retail end-use customers in
25 California in a calendar year.

26 (d) An electrical corporation with 60,000 or fewer customer
27 accounts in California that serves retail end-use customers outside
28 California, may use an integrated resource plan prepared in
29 compliance with the requirements of another state utility
30 regulatory commission, to fulfill the requirement to prepare a
31 renewable energy procurement plan pursuant to this article,
32 provided the plan meets the requirements of Sections 399.11,
33 399.12, 399.13, and 399.14, as modified by this section.

34 (e) Procurement and administrative costs associated with
35 long-term contracts entered into by an electrical corporation with
36 60,000 or fewer customer accounts in California that serves retail
37 end-use customers outside California, for eligible renewable
38 energy resources pursuant to this article, at or below the market
39 price determined by the commission pursuant to subdivision (c) of
40 Section 399.15, shall be deemed reasonable per se, and shall be

1 recoverable in rates of the electrical corporation's California
2 customers, provided the costs are not recoverable in rates in other
3 states served by the electrical corporation.

4 SEC. 14.5. Article 9 (commencing with Section 635) is added
5 to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code,
6 to read:

7
8 Article 9. Long Term Plans and Procurement Plans
9

10 635. In a long term plan adopted by an electrical corporation
11 or in a procurement plan implemented by a local publicly owned
12 utility, the electrical corporation or local publicly owned utility
13 shall adopt a strategy applicable both to newly constructed or
14 repowered generation owned and procured by the electrical
15 corporation or local publicly owned utility to achieve efficiency in
16 the use of fossil fuels and to address carbon emissions consistent
17 with the loading order approved by the commission, or for a local
18 publicly owned electric utility, a functionally equivalent order by
19 its governing body, the State Energy Resources Conservation and
20 Development Commission, and the California Consumer Power
21 and Conservation Financing Authority.

22 SEC. 15. The State Energy Resources Conservation and
23 Development Commission shall, on or before January 1, 2006,
24 report to the Governor and the Legislature with recommendations
25 for how to incentivize each local publicly owned electric utility, as
26 defined in Section 9604 of the Public Utilities Code, to implement
27 and enforce a renewables portfolio standard program meeting the
28 requirements of Section 399.15 of the Public Utilities Code,
29 utilizing eligible renewable energy resources, as defined in
30 Section 399.12. The commission may include the report as a
31 component of the 2005 Integrated Energy Policy or the next
32 renewable energy report required pursuant to Section 25758 of the
33 Public Resources Code. The commission shall use existing
34 resources to comply with this section.

35 SEC. 16. No reimbursement is required by this act pursuant
36 to Section 6 of Article XIII B of the California Constitution
37 because the only costs that may be incurred by a local agency or
38 school district will be incurred because this act creates a new crime
39 or infraction, eliminates a crime or infraction, or changes the
40 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

4 *SEC. 17. Section 5 of this act, which amends Section 25748 of*
5 *the Public Resources Code, shall not become operative if Assembly*
6 *Bill 2304 is enacted and becomes effective.*

